



# **STATE MINING AND GEOLOGY BOARD**

## **EXECUTIVE OFFICER'S REPORT**

**For Meeting Date: May 12, 2011**

**Agenda Item No. 11: Assumption Consideration Following Issuance of a 45-Day Notice to Correct Deficiencies to the City of Lake Elsinore Pursuant to the Surface Mining and Reclamation Act (SMARA).**

**INTRODUCTION:** Since 2007 the State Mining and Geology Board (SMGB) has received public complaints pertaining to the ability of the City of Lake Elsinore (City) to effectively administer mining activities within its jurisdiction pursuant to the Surface Mining and Reclamation Act of 1975 (SMARA). Complaints received in 2007 were germane to issues related to vested rights, which the SMGB did not have authority to consider. Following receipt of a public complaint in November 2009 pertaining to certain surface mining operations located within the City's jurisdiction, the SMGB has been receiving updates from the Department of Conservation Office of Mine Reclamation (OMR) as to the nature of the surface mining operations within the City's jurisdiction, and whether issues and violations noted are being adequately addressed by the City while serving as the SMARA lead agency. Inadequate response from the City resulted in OMR issuing a 15-Day Notice to the City on September 16, 2010. The City responded in correspondence dated October 1, 2010. At its December 9, 2010 regular business meeting, the SMGB moved to issue a 45-Day *Notice to Correct Deficiencies* to the City of Lake Elsinore (City), pursuant to Public Resources Code (PRC), Section 2774.4. The 45-Day Notice to Correct Deficiencies, dated December 21, 2010, was forwarded to the City. The City subsequently responded on February 3, 2010. The SMGB is considering the City's response and whether the SMGB should assume none, in part or whole, the City's SMARA lead agency responsibilities, with exception to permitting.

Exhibits containing information and documents from the City, from OMR, and from interested parties are attached to this report. A summary of Exhibits is provided below:

- Exhibit A      SMGB Correspondence
- Exhibit B      City of Lake Elsinore Correspondence
- Exhibit C      Office of Mine Reclamation Correspondence
- Exhibit D      Public Correspondence
- Exhibit E      2009 Inspection Reports

**STATUTORY AUTHORITY:** Public Resources Code (PRC) Sections 2774.4(a) and (b) provide criteria to the SMGB when considering assumption, or restoration, of certain SMARA powers of a lead agency. Specifically, PRC Section 2774.4 states:



*Executive Officer's Report*

*“(a) If the board finds that a lead agency either has (1) approved reclamation plans or financial assurances which are not consistent with this chapter, (2) failed to inspect or cause the inspection of surface mining operations as required by this chapter, (3) failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by this chapter, (4) failed to take appropriate enforcement actions as required by this chapter, (5) intentionally misrepresented the results of inspections required under this chapter, or (6) failed to submit information to the department as required by this chapter, the board shall exercise any of the powers of that lead agency under this chapter, except for permitting authority.*

*“(b) If, no sooner than three years after the board has taken action pursuant to subdivision (a), the board finds, after a public hearing, that a lead agency has corrected its deficiencies in implementing and enforcing this chapter, and the rules and regulations adopted pursuant to this chapter, the board shall restore to the lead agency the powers assumed by the board pursuant to subdivision (a).”*

Public Resources Code Sections 2774.4(c) provides criteria for the SMGB to consider should it determine to issue a 45-Day Notice to Correct Deficiencies, and states:

*“Before taking any action pursuant to subdivision (a), the board shall first notify the lead agency of the identified deficiencies, and allow the lead agency 45 days to correct the deficiencies to the satisfaction of the board. If the lead agency has not corrected the deficiencies to the satisfaction of the board within the 45-day period, the board shall hold a public hearing within the lead agency's area of jurisdiction, upon a 45-day written notice given to the public in at least one newspaper of general circulation within the city or county, and directly mailed to the lead agency and to all surface mining operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207.”*

Public Resources Code Sections 2774.4(d) and (e) provide an administrative process for a public hearing and adoption of findings for assumption of certain SMARA powers of the lead agency, following issuance of the 45-Day Notice of Deficiencies, and states:

*“(d)Affected surface mining operators and interested persons have the right, at the public hearing, to present oral and written evidence on the matter being considered. The board may, at the public hearing, place reasonable limits on the right of affected surface mining operators and interested persons to question and solicit testimony.*

*“(e) If, after conducting the public hearing required by subdivision (c), the board decides to take action pursuant to subdivision (a) the board shall, based on the record of the public hearing, adopt written findings which explain all of the following:*

*(1) The action to be taken by the board.*



*(2) Why the board decided to take the action.*

*(3) Why the action is authorized by, and meets the requirements of, subdivision (a).*

*In addition, the findings shall address the significant issues raised, or written evidence presented, by affected surface mining operators, interested persons, or the lead agency. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the board.*

*(f) The lead agency, any affected surface mining operator, or any interested person who has presented oral or written evidence at the public hearing before the board pursuant to subdivision (d) may obtain review of the board's action taken pursuant to subdivision (a) by filing in the superior court a petition for writ of mandate within 30 days following the issuance of the board's decision.*

*Section 1094.5 of the Code of Civil Procedure governs judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If a petition for a writ of mandate is not filed within the time limits set by this subdivision, the board's action under subdivision (a) shall not be subject to review by any court or agency."*

#### **BACKGROUND:**

**Overview of Surface Mining within City's Jurisdiction:** Seven surface mining operations are situated within the jurisdiction of the City. The surface mining operations are:

- Pacific Clay Pits (CA Mine ID #91-33-0006)
- Wyroc, Inc. (CA Mine ID #91-33-0015)
- Mountain Avenue Pit #2 (CA Mine ID #91-33-0020)
- Mountain Avenue Pit #1 (CA Mine ID 391-33-0021)
- Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022)
- Murdock Alberhill Ranch (CA Mine ID #91-33-0073)
- Nichols Canyon Mine (CA Mine ID #91-33-0098)

Products produced include rock, sand and gravel, and clay.

A preliminary review of the current status for all surface mines located within the City's jurisdiction was performed. In particular, certain parameters indicative of overall SMARA lead agency performance were evaluated. These parameters reflect upon those minimal activities required by all SMARA lead agencies such as conduct of adequate inspections at least once each calendar year, review and adjustment of financial assurance cost estimates, and enforcement actions. Also noted were substantial deviations from approved reclamation plans, and mines initially reported as idle that have since become abandoned, whether that was the operator's intent or not (i.e., no SMARA lead agency approved Interim Management Plan (IMP) in place). In addition, the average estimated reclamation cost per disturbed acre was evaluated to serve as a general indicator as to whether such costs are reasonable or otherwise significantly lower than amounts established elsewhere throughout the state.



The SMGB has received public complaints pertaining to the City's ability to effectively administer mining activities within its jurisdiction pursuant to SMARA since 2007. Complaints received in 2007 were germane to issues related to vested rights, which the SMGB did not have authority to consider. However, following receipt of a public complaint pertaining to certain surface mining operations located within the jurisdiction of the City in November 2009, the SMGB has been receiving updates from OMR as to the nature of the surface mining operations within the City's jurisdiction, and as to whether issues and violations noted are being adequately addressed by the City while serving as the SMARA lead agency.

OMR staff conducted site visits at surface mining operations within the City on March 24, 2010, and presented a summary to the SMGB at their July 10, 2010, regular business meeting. At such meeting, the SMGB expressed concern based on information provided by OMR, and requested that OMR provide more in-depth information, including inspection reports that the city had been filing during the time houses were being built within the boundaries of a mining operation, photographs taken during inspections and site visits performed by OMR, and OMR's commentary on such reports. In correspondence dated August 6, 2010, the City requested additional time to prepare and present a comprehensive report to OMR. Inadequate response from the City resulted in OMR issuing a 15-Day Notice to the City on September 16, 2010. The City responded to OMR's 15-Day Notice in correspondence dated October 1, 2010. Additionally, during its October 14, 2010, regular business meeting the SMGB heard from a representative of the firm hired by the City to conduct annual SMARA inspections, and heard from a representative of a firm hired by one of the mining operators within the City to resolve SMARA compliance issues. Such responses from the City have been deemed incomplete and inadequate.

A chronology of pertinent administrative events and activities, and correspondence received, is summarized in Table 1.

Table 1	
Chronology	
Date	Action/Activity
November 2009	Initial public complaint received <sup>(a)</sup>
March 24, 2010	Site visits performed by OMR
July 10, 2010	Report presented by OMR to SMGB
September 9, 2010	Additional information provided by OMR dated June 28, 2010
September 16, 2010	15-Day Notice issued by OMR to City for CA Mine ID 391-33-0006, 0020, 0022, 0073 and 0098 (Exhibit A)
October 1, 2010	Additional information, and the City's response to the 15-Day Notice, dated October 1, 2010 (Exhibit B)



November 17, 2010	Site visit conducted by OMR
December 7, 2010	OMR response to City's response to the 15-Day Notice.
January 25, 2011	SMGB Executive Officer meeting with City and site visits.
February 17, 2011	OMR issued Notice of Violation to CA Mine ID #91-33-0006, -0020, -0022 and -0073.
March 20, 2011	Pacific Clay Products, Inc. correspondence pertaining to CA Mine ID #91-33-0006, 0020, 0022 and 0073.
March 29, 2011	City's correspondence to County of Riverside pertaining to Notice of Violation issued to the Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022).
April 11, 2011	OMR issued an Order to Comply to CA Mine ID 391-33-0006, 0020, 0022 and 0073.

(a) Complaints and comments provided by same party have been persistent since originally received in November 2009 [Exhibit D].

#### **Analysis of City's SMARA Program (2008 to 2010):**

Approval of reclamation plans or financial assurances which are not consistent with SMARA: A chronology as noted by OMR is summarized below (Table 2). In review of this chronology, the City has historically (since becoming the SMARA lead agency in 2008) failed to administer, or has incorrectly administered, the approval of reclamation plans and amended reclamation plans within its jurisdiction. Financial assurances for four of the surface mining operations (CA Mine ID #91-33-0006, -0020, -0022 and -0073) were adjusted in April 2010, after the City was informed by OMR that such adjustments were delinquent. Considering the overall status of the various reclamation plans and need for amendment as previously discussed, the adequacy of the financial assurances remains uncertain.

In regards to the status of three surface mining operations that were at one time deemed idle the following is noted:

- Wyroc, Inc. (CA Mine ID #91-33-0015): IMP expired in January 2010; site currently deemed abandoned.
- Mountain Avenue Pit #1 (CA Mine ID #91-33-0021): Reported as Closed with No Intent to Resume since 2007; currently deemed abandoned.
- Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022): IMP expired in November 2009; site currently deemed abandoned; not acted upon by City.

SMARA Mine Inspections: Pursuant to PRC Section 2774(b), SMARA requires that all surface mines be inspected at least once each calendar year. A review of five of the City's 2009 inspection reports was performed by the Executive Officer. General comments provided below pertain to adequacy of inspection reports and emphasize areas that could be improved to benefit the City in facilitating its SMARA program in an efficient and effective manner.



**Table 2**  
**Chronology of Certain Administrative Actions by Operators, County and City**

Reclamation Plan No.	Approval Date	Acreage Approved (Annexed)	Remarks
RP 112; CA Mine ID #91-33-0006	1978	3457	Covered all but Gladding McBean and Elsinore Ready Mix sites which were excluded.
RP 110 CA Mine ID #91-33-0020	1978 after RP 112	80; covers southern part of area excluded from RP 112.	Overlaps onto RP 112 on the west and east; some disturbed area not covered by either RP 112 or RP 110; RP 112 not amended.
SMP 108	1979	300+	Operator claims CA Mine ID #91-33-0006 (RP 112), but RP 112 specifically excluded this area and was never amended; does not overlap RP 112, but excludes a wedge-shaped portion of excluded areas under RP 112. Map also shows RP 112 continuing on south border of SMP 108, which is covered by previously approved RP 110; map questionable.
	1979-1980		Pacific Clay takes over SMP 108 from Gladding McBean; SMP 108 should have been incorporated into RP 112, but no amendment was undertaken.
	1989	1853	City approves Alberhill Ranch Specific Plan; mixed use development; required amendment of the 1978 RP 112; never accomplished.
	1990 (May)	(2667)	City annexed 2667 of 3457 acres (east of Lake Street), assuming responsibility for RP 112; still three reclamation plans in effect (RP 112, RP 110 and SMP 108); the latter two within County's jurisdiction.
	1990 (June)		City approves development agreement with Brighton Homes permitting construction of 2735 homes on 1000 acres within annexation area; agreement requires an approved amendment of RP 112 – no evidence that such amendment was accomplished.
RP 90-1 CA Mine ID #91-33-0022	1990 (September)	1000	City approves Brighton Homes Alberhill RP 90-1 north of Cool Ave. and east of Lake Street; completely within RP 112 which again was never amended to reflect new footprint; RP 90-1 is for reclamation only with no mining to be conducted, and one year-limit to initiate reclamation, and five years to complete reclamation; grading plan and compaction requirements of 90% with preparation for residential development; CA Mine ID #91-33-0022 issued.
RP 90-3	1990 (December)	9.6	City approved RP 90-3 for the Wyroc, Inc. Lake Street Quarry.





CA Mine ID #91-33-0073	1992	511	Alberhill Specific Plan amended to incorporate 511 acres of the 1853 acres in to Alberhill Ranch Specific Plan; 511 acres proposed to stay under original 1978 RP 112 until reclaimed and developed into housing; property now occupied by CA Mine ID #91-33-0073, and CA Mine ID #91-33-0006 appears to be only for mining lands within jurisdiction of County of Riverside.
	1993 (March)		CA Mine ID #91-22-0022; Brighton Homes declared bankruptcy with reported production from 1991-1997 totaling 137,800 tons within area where no mining was to be performed and only reclamation to occur; site can no longer be reclaimed in accordance with its approved reclamation plan since much of the material to be used for fill has been removed.
	1995		SMP 108 amended to include clay processing area north of original SMP 108, and which overlays RP 112, as a mechanism for City to permit a new kiln which could not be undertaken via vesting of RP 112. RP 112 was not amended to remove area annexed to SMP 108.
RP 110	2003-2004		Pacific Aggregates arrived and took over RP 110 after ERM lease expired, and in 2004 signed lease agreement with Pacific Clay to mine in RP 112 and process in RP 110.
	2004		IMP submitted for CA Mine ID #91-33-0022, even though no amended reclamation plan exists to continue mining.
	2004-2005		CA Mine ID #91-33-0073; housing development construction commences; overlies RP 112; City claims site certified reclaimed, but no record of RP 112 being amended, and no other reclamation plan in files for this mine identification number.
RP 2006-01	2006		City approves reclamation plan for Nichols Canyon Quarry (CA Mine ID #91-33-0098), which overlays RP 112, which was not amended. This parcel leased by Pacific Clay was quit claimed back to owner in 1988, who never conducted surface mining activities in this parcel; RP 112 should have been amended at this time to exclude this parcel; however, Pacific Clay or an affiliate purchased the site in 1998 and pursued a vested right based on RP 112, which the City granted.
	2008	(72)	City given lead agency responsibility for entire area.

California Code of Regulations (CCR) Section 3504.5(f) of the SMGB's regulations state:

*“Inspections may include, but shall not be limited to the following: the operation's horizontal and vertical dimensions; volumes of materials stored on the site; slope angles of stock piles, waste piles and quarry walls; potential geological hazards; equipment and other facilities; samples of materials; photographic or other electronic images of the operation; any measurements*



*or observations deemed necessary by the inspector or the lead agency to ensure the operation is in compliance with Public Resources Code Chapter 9.”*

CCR Section 3504.5(g) also states “*The inspection report to the lead agency shall consist of the inspection form MRRC-1...and any other reports or documents prepared by the inspector or inspection team...The lead agency shall provide a copy of the completed inspection report along with the lead agency’s statement regarding the status of compliance of the operation to the director within 30 days of completion of the inspection...*”

Adequate inspection reports are the foundation upon which a determination for adjusting the financial assurance is made, and are how administrative and compliance/enforcement actions to be considered by the lead agency (City) are clearly identified. Overall, the inspection reports are inadequate and do not provide sufficient information to provide for an adequate understanding of site conditions, conditions that are deemed out-of-compliance, nor whether the lead agency needs to consider any specific compliance or enforcement actions. The following general observations are offered:

- Reference to Compliance/Enforcement Triggers: The inspection reports did not contain reference to any reclamation or performance requirements, as set forth in the approved reclamation plans, or permit requirements such as Conditions of Approval. No performance standards set forth in the reclamation plans or permit conditions are noted. Without such references, the inspection report upon review fails to assure the lead agency that the site conditions meet the requirements of the approved reclamation plan and permit requirements. It should be noted that some sites may have numerous Conditions of Approval or permit conditions, many of which are directly relevant to reclamation such as steepness of slopes, setbacks, safety requirements, and revegetation performance standards.
- Quantification of Site Conditions: The inspection reports do not include any quantification of site conditions, where applicable. SMGB regulations (CCR Section 3504.5(f)) state that “*Inspections may include, but shall not be limited to the following: the operation’s horizontal and vertical dimensions; volumes of materials stored on the site; slope angles of stock piles, waste piles and quarry walls; potential geological hazards; equipment and other facilities; sample of materials; photographic or other electronic images of the operation; any measurements or observations deemed necessary by the inspector or the lead agency to ensure the operation is in compliance with Public Resources Code Chapter 9.*” Such information was not provided in the inspection reports.
- Adequate Identification of Violations: The inspection reports did not adequately identify violations and corrective measures. Should a violation or substantial deviation from the existing approved reclamation





plan or any Conditions of Approval be determined to exist at time of inspection (i.e., encroachment of disturbed land beyond the reclamation plan boundary), a violation should be noted. The City can then determine upon review of the inspection report whether enforcement or other compliance actions are warranted. Without specific violations being noted in the inspection reports, the City acting as the SMARA lead agency is not in a position to consider and implement the appropriate SMARA compliance and/or enforcement action.

For example, in the five inspection reports reviewed, only one violation was noted. The violation was for the Murdock-Alberhill Ranch Mine, and the violation noted was for inadequate drainage maintenance. OMR staff has observed that certain operators have conducted surface mining operations outside their respective approved reclamation plan footprints and have failed to correctly amend reclamation plans to adhere to end use criteria.

- Annotated Images: The inspection reports did not adequately document violations observed during conduct of the inspection through the use of annotated photographs.

In summary, the inspection reports do not clearly reflect actual site conditions, and the need for several of the reclamation plans to be amended. Adequate mine inspections that fulfill the intent of SMARA and the SMGB's regulations need to be performed for all seven surface mine operations within the jurisdiction of the City. Such inspections should be performed by a qualified individual (or individuals) pursuant to PRC Section 2774(b), and CCR Section 3504.5(b), (c) and (d).

Financial Assurance Annual Review and Adjustment: Pursuant to PRC Section 2773.1(a)(3) SMARA requires that the financial assurance cost estimate (FACE) for each surface mining operation be reviewed and adjusted annually, as appropriate. As of January 2009, only two of seven (29 percent) mines had approved financial assurances, while four of seven (57 percent) had their respective financial assurance cost estimates updated since 2007. Financial assurances for four of the surface mining operations (CA Mine ID #91-33-0006, -0020, -0022 and -0073) were adjusted in April 2010, after being informed by OMR that such adjustments were delinquent. Due to inadequate inspection reports, financial assurances remained questionable.

Reclamation Cost per Disturbed Acre: As of January 2009, the average estimated cost of reclamation per disturbed acre City-wide is on the order of \$1,766. This amount was determined to be inadequate to reclaim in accordance with the approved reclamation plans. In addition, the reclamation cost per acre remains in question due to inadequate inspection reports and the need for certain reclamation plans to be amended.

Enforcement: No violations have been issued by the City to any surface mining operation within its jurisdiction. This suggests that no violations exist, violations should have been issued but were not, or the City did not have the knowledge or expertise to determine whether a violation existed and should have been issued.



AB 3098 Status: OMR periodically publishes a list of mines regulated under SMARA that meet provisions set forth under PRC Section 2717(b). This list is generally referred to as the AB 3098 List, in reference to the 1992 legislation that established it. Sections 10295.5 and 20676 of the Public Contract Code preclude mining operations that are not on the AB 3098 List from selling sand, gravel, aggregates or other mined materials to state or local agencies. For OMR to place a mining operation on the AB 3098 List, the surface mining operation must meet all of the following conditions:

- The operation has an approved reclamation plan;
- The operation has an approved financial assurance;
- The operation has filed its annual report;
- The operation has paid its reporting fee; and
- The operation has had its annual inspection by the lead agency which reflects the operation is in full compliance with the law.

The surface mining operation may be on the AB 3098 List if it has a pending appeal with the SMGB regarding its reclamation plan or financial assurance, provided its appeal has not been pending for more than 180 days.

The number of surface mining operations on or off the AB 3098 list can be indicative of overall site compliance. A total of five mines within the City are noted on the AB 3098 List.

**Findings:** At its December 9, 2010 regular business meeting, the following findings were offered:

- The City, in regards to issuance of permits and approval of reclamation plans and amended reclamation plans, has either administered such actions incorrectly, or not undertaken such actions.
- Despite numerous violations observed by OMR staff during conduct of two site visits, 1) only one violation to address drainage issues on one site is noted in the inspection reports for all sites within the City's jurisdiction, and 2) no Notices of Violation have been issued by the City to any operator within the City's jurisdiction. Such violations take the form of operators operating outside their approved reclamation plan footprint, inadequate erosion control, acceptance of inspection reports that do not adequately characterize current site operations and conditions, inadequate financial assurances, failure to correctly amend certain reclamation plans, and allowing certain operators to not comply with end use requirements as set forth in certain reclamation plans, etc.



- Three sites considered idle as of 2007 are currently deemed abandoned, and the City has failed to act in a timely or appropriate manner.
- Responses from the City received by OMR to date have been deemed incomplete and inadequate.
- The City to date 1) has not fulfilled its responsibilities and obligations as a SMARA lead agency, and 2) has not demonstrated an ability to administer its SMARA program in an appropriate manner consistent with the intent of SMARA and the SMGB's regulations.

**ISSUANCE OF THE 45-DAY NOTICE TO CORRECT DEFICIENCIES:** At its December 9, 2010 regular business meeting, the SMGB moved to issue a 45-Day Notice to Correct Deficiencies to the City of Lake Elsinore (City), pursuant to PRC, Section 2774.4. The 45-Day Notice to Correct Deficiencies, dated December 21, 2010, was forwarded to the City. The City subsequently responded on February 3, 2010.

There are six categories of violations listed in PRC Section 2774.4 under which the SMGB may determine to assume the lead agency's responsibilities and obligations, with exception to permitting. These six categories are:

**Category [ 1 ]** - A lead agency has approved reclamation plans or financial assurances which are not consistent with SMARA;

**Category [ 2 ]** - A lead agency has failed to inspect or cause the inspection of surface mining operations as required by SMARA;

**Category [ 3 ]** - A lead agency has failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by SMARA;

**Category [ 4 ]** - A lead agency has failed to take appropriate enforcement actions as required by SMARA;

**Category [ 5 ]** - A lead agency has intentionally misrepresented the results of inspections required under SMARA; and

**Category [ 6 ]** - A lead agency has failed to submit information to the Department of Conservation as required by SMARA.

**CITY'S RESPONSE TO THE 45-DAY NOTICE TO CORRECT DEFICIENCIES:** In the SMGB's 45-Day Notice to Correct Deficiencies, dated December 12, 2010, deficiencies in the City's administration of SMARA were identified with respect to surface mines located within the City's



jurisdiction. The deficiencies, the City's response to the 45-Day Notice to Correct Deficiencies, dated February 3, 2010, and the Executive Officer's analysis, are summarized below:

**Deficiency 1:** The City, in regards to issuance of permits and approval of reclamation plans and amended reclamation plans, has either administered such actions incorrectly, or has not undertaken (Category 1 violation pursuant to PRC Section 2774.4; deficiency pursuant to PRC Section 2774(b) and 2774.1(a)). Notably, reclamation plans were not amended in a manner consistent with SMARA for the following surface mine operations:

- Pacific Clay Pits (CA Mine ID #91-33-0006)
- Mountain Avenue Pit #2 (CA Mine ID #91-33-0020)
- Mountain Avenue Pit No. 1 (CA Mine #91-33-0021)
- Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022)
- Murdock Alberhill Ranch (CA Mine ID #91-33-0073)
- Nichols Canyon Mine (CA Mine ID #91-33-0098)

**City's Response:** The County of Riverside had lead agency responsibilities west of Lake Street up to March 2008; post-March 2008 the City had lead agency responsibilities for both areas east and west of Lake Street.

OMR in its 15-Day Notice to the City directed the City to consolidate the reclamation plans for CA Mine ID #91-33-0006, 0020, 0022, 0073 and 0098. The City claimed that the mines in question have different operators with separately approved reclamation plans. The City stated that it would work with the surface mine operators responsible for 0006 (SMP 108), 0020 (RP110) and 0073 (RP 112), into a single plan. These three sites are contiguous and geographically separated from other mine sites in the area by Lake Street and/or Interstate 65. The City stated that it did not have the authority to combine reclamation plans as recommended by OMR.

An IMP is an amendment to an approved reclamation plan. The City inappropriately approved an IMP for CA Mine ID#91-33-0022 (RP 90-1), which was abandoned, and then rescinded the IMP and issued a NOV for failure to provide an amended reclamation plan since the site could no longer be reclaimed in a manner consistent with the approved 1990 reclamation plan. This issue is further discussed under Deficiency 4.

**Executive Officer Analysis:** At its December 9, 2010, regular business meeting, OMR presented the SMGB with a synopsis of surface mining and SMARA administrative actions taken by the County of Riverside and the City from 1978 to present. The City did indicate in its February 3, 2011, response that it would follow all procedures outlined in SMARA to amend the various reclamation plans, and foster better communications with OMR in the future, and used outside resources, as needed. However, the City also stated that it may not have the statutory authority to require that all sites be combined.



The reclamation plans for CA Mine ID Nos. 91-33-0006, -0022 and -0073 are in the process of being combined; however, such result was not because the City took appropriate action. This result is reflective of OMR issuing a 15-Day notice to the City, then having to initiate enforcement action for these surface mining operations since the City failed to do so. OMR issued an NOV and OTC to the operators because of the City's failure to enforce SMARA. The City did have the authority to take enforcement action, but did not exercise such authority.

The City provided no response for CA Mine ID #91-33-0021 (SMP 101). This site is further discussed under Deficiency 4.

No significant issues were identified by the City and OMR in regards to CA Mine ID #91-33-0098 (RP 2006-1).

**Deficiency 2:** The City has failed to inspect or cause the inspection of surface mining operations as required by SMARA. The City failed to perform SMARA mine inspections for all seven surface mine sites in 2001, although the City performed annual SMARA inspections for all sites from the years 2002 through 2005. However, the inspection reports, upon review, were inadequate. The inspection reports do not contain reference to any reclamation or performance requirements, as set forth in the approved reclamation plans, nor do they cite permit requirements such as Conditions of Approval. No performance standards set forth in the reclamation plans or permit conditions are noted. Without such references, the inspection reports upon review fail to assure the lead agency that site conditions meet the requirements of the approved reclamation plans and permit requirements.

The inspection reports do not include any quantification of site conditions, where applicable. SMGB regulations (CCR Section 3504.5(f)) state that "*Inspections may include, but shall not be limited to the following: the operation's horizontal and vertical dimensions; volumes of materials stored on the site; slope angles of stock piles, waste piles and quarry walls; potential geological hazards; equipment and other facilities; sample of materials; photographic or other electronic images of the operation; any measurements or observations deemed necessary by the inspector or the lead agency to ensure the operation is in compliance with Public Resources Code Chapter 9.*" Such information was not provided in the inspection reports.

Furthermore, the City failed to identify and issue any violations from 2001 through 2005 (Categories 2 and 4 violations pursuant to PRC Section 2774.4; deficiency pursuant to PRC Section 2774(b) and 2774.1(a)).

**City's Response:** Inspections of certain surface mining operations were performed from 2004 to 2008 by the County of Riverside and in 2009 by the City. No inspections were performed in 2008. The City states that "*Although SMARA inspections do not 'require' any other information be completed and submitted each year, other than the Annual Inspection form, the City understands that other individuals need to review the information needed.*" The City did, however, commit to having its consultant/contractor provide more information in all future inspection reports.



The City commented that drainage control concerns have been expressed at one site since 1992, with a NOV issued in 2004 for failure of the operator to file for an extension and delaying the start of reclamation. The NOV was followed by issuance of an OTC, with the subsequent submittal and approval of an IMP in 2005; however, by 2005 the site was deemed abandoned.

**Executive Officer Analysis:** It is very clear in the SMGB's regulations that some information may be deemed necessary by the inspector or the lead agency to ensure the operation is in compliance with SMARA (CCR Section 3504.5(f)), and it is clear that in some cases the inspection form to the lead agency should be accompanied by other reports or documents prepared by the inspector and/or the inspection team (CCR Section 3504.5(g)). The submittal of simply a form reflects the minimal amount of information to be provided; whereas, SMARA (PRC Section 2774(b)) and the SMGB's regulations clearly indicate that such reporting should not be limited to simply the form. Historically, the City and the City's SMARA inspector have not demonstrated that a need for other reports or documents exists. However, based on site observations made by OMR, such additional information was considered necessary. No new inspection reports were provided for review.

The approval by the City of an IMP in 2005 for CA Mine ID #91-33-0022, even though the site has since become abandoned pursuant to SMARA (PRC Section 2727.1(h)(6)), was an inappropriate administrative act on behalf of the City. The City as of 2005, no longer had the authority under SMARA to approve an IMP. The site was abandoned and the operator should have been compelled to commence reclamation, or the City should have sought forfeiture of the financial assurance in order to commence and complete reclamation (PRC 2773(d)). In addition, inspection reports for the years 2005, 2006 and 2009 noted the need for an amended reclamation plan since the site could not be reclaimed in accordance with its approved 1990 approved reclamation plan. No violations however are noted in the inspection report dated April 9, 2010.

**Deficiency 3:** Pursuant to PRC Section 2773.1(a)(3), SMARA requires that the financial assurance cost estimate (FACE) for each surface mining operation be reviewed and adjusted annually, as appropriate. As of January 2009, only two of seven (29 percent) mines had approved financial assurances, while four of seven (57 percent) had their respective financial assurance cost estimates updated since 2007. Financial assurances for four of the surface mining operations (CA Mine ID #91-33-0006, -0020, -0022 and -0073) were adjusted in April 2010, after being informed by OMR that such adjustments were delinquent. Due to inadequate inspection reports, and the need for reclamation plans to be amended for certain surface mining operations within the City's jurisdiction, financial assurances for the following surface mining operations remain questionable:

- Pacific Clay Pits (CA Mine ID #91-33-0006)
- Mountain Avenue Pit #2 (CA Mine ID #91-33-0020)





- Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022)
- Murdock Alberhill Ranch (CA Mine ID #91-33-0073)
- Nichols Canyon Mine (CA Mine ID #91-33-0098)

**City's Response:** The City notes that financial assurances for all surface mine sites within its jurisdiction have been adequately addressed as of April 2010, with financial assurance mechanisms in place. Overall financial assurances have increased from about 3 million dollars to nearly 9 million dollars. In summary, the City states that it *"has met the test of reclamation adequacy and there is no[t] point to further laboring on[r] this concern."*

**Executive Officer Analysis:** A current summary of financial assurances is provided in Table 3. In November 2008, the City was informed by OMR that the financial assurances for CA Mine ID Nos. 91-33-0006, -0073 and -0098, were inadequate. According to OMR, the City was non-responsive and OMR subsequently issued 30-Day Notices to the operators of these sites, requiring financial assurance mechanisms. Although the financial assurances were adjusted in July 2010, whether they are deemed adequate cannot be determined in the absence of adequate inspection reports and proper reclamation plans for each site (also refer to Executive Officer's analysis for Deficiency 5).

Table 3 Summary of Financial Assurance Cost Estimates and Mechanism Amounts				
Mine ID	Mine Name	Current FACE	FACE Date	Current FAM
91-33-0006	Pacific Clay Pits	\$3,323,056.96	7/27/2010	\$3,541,526.00
91-33-0015	Wyroc	\$92,382.00	7/27/2010	\$92,382.00
91-33-0020	Mountain Avenue Pit #2	\$2,478,944.93	7/27/2010	\$2,531,569.00
91-33-0021	Mountain Avenue Pit #1	\$0.00	8/19/2009	No record
91-33-0022	Brighton Alberhill Clay Mine	\$232,203.00	4/20/2009	\$232,203.00
91-33-0073	Murdoch Alberhill Ranch	\$1,953,750.10	7/27/2010	\$2,022,116.00
91-33-0098	Nichol's Canyon Mine	\$437,431.76	7/27/2010	\$459,679.00

**Deficiency 4:** The City failed to enforce and seek forfeiture of the financial assurances for three surface mining operations upon its abandonment by the operator, and the City has failed to act in a timely or appropriate manner (Category 3 violation pursuant to PRC Section 2774.4; deficiency pursuant to PRC Section 2773.1(b)). In regards to the status of three surface mining operations that were at one time deemed idle the following is noted:

- Wyroc, Inc. (CA Mine ID #91-33-0015): IMP expired in January 2010; site currently deemed abandoned.



- Mountain Avenue Pit #1 (CA Mine ID #91-33-0021): Reported as Closed with No Intent to Resume since 2007; currently deemed abandoned. IMP expired in 2007.
- Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022): The IMP for this site expired in November 2009; the site is currently deemed abandoned; and not acted upon in an appropriate manner by the City.

**City's Response:** The City states that it "*strongly believes that none of the sites are "abandoned" and that it is completely unnecessary to seek forfeiture of financial assurances from any site within the City's jurisdiction at this time.*"

**Executive Officer Analysis:** Wyroc, Inc. (CA Mine ID #91-33-0015) attained an approved IMP dated January 5, 2005, which expired on January 5, 2010. The City acknowledges that the request for extension of an existing approved IMP was late, but the City took it upon itself without authority under SMARA to approve the extension. The site became abandoned as of January 5, 2010. The City failed to have the operator commence reclamation, or seek forfeiture of the financial assurance for the purpose of commencing reclamation.

Mountain Avenue Pit #1 (formerly McVickers Canyon; CA Mine ID #91-33-0021) was deemed closed by the City in June 2009. OMR's prepared a Site Visit Report for Closure dated July 13, 2010; the conclusions were inconclusive and no formal response to the City was evident. During a site visit by the Executive Officer, slope instability and significant erosion of the east (west-facing) cut wall was observed. No financial assurances exist for this site. The site is currently deemed abandoned. The City failed to have the operator commence reclamation, or seek forfeiture of the financial assurance for the purpose of commencing reclamation.

Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022) was to be fully reclaimed in 1998 to residential. The City states that because the operator requested an extension to their 2005 approved IMP, and the City did not consider the extension request in a timely manner, the City subsequently approved an IMP for a site that was by then deemed abandoned. The City then rescinded the extension and requested an amended reclamation plan. The City failed to recognize that the site was abandoned when the IMP was being considered and subsequently approved. The City approved an IMP without any authority under SMARA. The City failed to have the operator commence reclamation, or seek forfeiture of the financial assurance for the purpose of commencing reclamation.

**Deficiency 5:** The City failed to take appropriate enforcement actions as required by SMARA. Despite numerous violations observed by OMR staff during conduct of two site visits, 1) only one violation to address drainage issues on one site is noted in the inspection reports for all sites within the City's jurisdiction, and 2) no violations have been issued by the City to any operator within the City's jurisdiction. Such violations take the form of operators operating outside their approved reclamation plan footprint, inadequate erosion control,



acceptance of inspection reports that do not adequately characterize current site operations and conditions, inadequate financial assurances, failure to correctly amend certain reclamation plans, and allowing certain operators to not comply with end use requirements as set forth in certain reclamation plans, etc.

The City to date 1) has not fulfilled its responsibilities and obligations as a SMARA lead agency, and 2) has not demonstrated an ability to administer its SMARA program in an appropriate manner consistent with the intent of SMARA and the SMGB's regulations. No Notice of Violation or subsequent Order-to-Comply has ever been issued by the City to a surface mine operation within its jurisdiction (Category 4 violations pursuant to PRC Section 2774.4; deficiency pursuant to PRC Section 2770(h)(6)).

**City's Response:** The City claims that *"No operation in the City's jurisdiction is operating outside of an approved Reclamation Plan boundary or an area not covered by financial assurances."* The City also claims that it *"does not, and has not, allowed certain operators to not comply with end use requirements as set forth in certain reclamation plans."* The City states that it did deem the area referred to as the Murdock Ranch Development (formerly included within RP112) reclaimed to open space, and then issued development permits for residential use. The City acknowledges that it did not adequately communicate with OMR in taking these actions.

**Executive Officer Analysis:** The City's argument is that all mining is covered by some reclamation plan, but in review of a specific mining operation by mine identification number, mining is clearly being conducted outside its respective boundaries. Operating outside a particular mining operation's boundary is what the violation is. In review of OMR files, one NOV dated January 12, 2011, was issued by the City to Pacific Clay and Pacific Aggregates, but also included Castle & Cooke and its affiliates later in the notice. In other words, the Notice of Violation was issued to four separate surface mining operations (CA Mine ID #91-33-0006, -0020, -0022 and -0073). No clarity was provided as to what the actual violation or violations were in the Notice of Violation issued by the City. The City failed to issue NOVs for specific operators for operating outside their respective boundaries as depicted in their respective approved reclamation plans, as observed by OMR staff and the Executive Officer.

In addition, the City only issued a NOV after the SMGB began its focus on the citizen's complaint about surface mining operations within the City's jurisdiction. The City historically 1) has not fulfilled its responsibilities and obligations as a SMARA lead agency, and 2) has not demonstrated an ability to administer its SMARA program in an appropriate manner consistent with the intent of SMARA and the SMGB's regulations. The City failed to take appropriate enforcement actions as required by SMARA despite numerous violations observed by OMR staff during conduct of two site visits, including evidence of operators operating outside their approved reclamation plan footprint and inadequate erosion controls. Additionally, the City has



tolerated inspection reports that do not adequately characterize current site operations and conditions, inadequate financial assurances, failure to correctly amend certain reclamation plans, and has allowed certain operators to not comply with end use requirements as set forth in certain reclamation plans, etc.

**Deficiency 6:** The City failed to adequately respond to the 15-Day Notice issued by the OMR, and to respond in a timely manner to OMR's request for the resubmission of financial assurance cost estimates for seven out of nine mine sites (Category 6 violation pursuant to PRC Section 2774.4; deficiency pursuant to CCR Section 3805.5, and PRC Section 2774(d)):

- Pacific Clay Pits (CA Mine ID #91-33-0006)
- Wyroc, Inc. (CA Mine ID #91-33-0015)
- Mountain Avenue Pit #2 (CA Mine ID #91-33-0020)
- Mountain Avenue Pit #1 (CA Mine ID 391-33-0021)
- Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022)
- Murdock Alberhill Ranch (CA Mine ID #91-33-0073)
- Nichols Canyon Mine (CA Mine ID #91-33-0098)

**City's Response:** The City in its October 1, 2010, correspondence, responded to the 15-Day Notice issued by OMR on September 20, 2010.

**Executive Officer Analysis:** The City expressed a commitment to work with OMR, but initially failed to recognize the need to consolidate reclamation plans for CA Mine ID #91-33-0006, 0020, 0022, 0073 and 0098, and the need to amend reclamation plan RP 112 to reflect an end use of residential. The City's response to the 15-Day Notice issued by OMR on October 1, 2010, was inadequate as noted in OMR's December 7, 2010, correspondence. It is the Executive Officer's understanding at the time this report was being prepared that a stipulated Order to Comply was being prepared between select operators and OMR, and that the City has also been involved in these discussions, and concurs with the stipulated Order to Comply, and the conditions thereof.

**EXECUTIVE OFFICER'S FINDINGS:** In regards to the specific six categories being considered, the following findings are offered:

**Category [ 1 ]** - A lead agency has approved reclamation plans or financial assurances which are not consistent with SMARA;

**Category [ 2 ]** - A lead agency has failed to inspect or cause the inspection of surface mining operations as required by SMARA;

**Category [ 3 ]** - A lead agency has failed to seek forfeiture of financial assurances and to carry out reclamation of surface mining operations as required by SMARA;



**Category [ 4 ]** - A lead agency has failed to take appropriate enforcement actions as required by SMARA;

**Category [ 5 ]** - A lead agency has intentionally misrepresented the results of inspections required under SMARA; and

**Category [ 6 ]** - A lead agency has failed to submit information to the Department of Conservation as required by SMARA.

**Category [1] - Finding No. 1:** The City failed to maintain adequate financial assurances as a SMARA lead agency.

**Category [1] - Finding No. 2:** The City continues to fail to identify the key issues and formulate a strategy to effectively administer and implement SMARA in an efficient and timely manner, notably, in the combining of reclamation plans for three operations (CA Mine ID #91-33-0006, 0022 and 0073).

**Category [2] - Finding No. 3:** The City failed to provide adequate inspection reports while serving as a SMARA lead agency. Past inspection reports were inadequate, and they did not clearly convey site conditions at the time of inspection, or identify violations in reference to the approved reclamation plan and permit conditions, where applicable.

**Category [3] - Finding No. 4:** The City failed to recognize three sites as abandoned, failed to direct certain operators to commence reclamation, and failed to seek forfeiture of the financial assurances and commence reclamation for these sites.

**Category [4] - Finding No. 5:** Although the City has improved its general understanding of SMARA and the SMGB's regulations, it has demonstrated an inability to administer compliance/enforcement actions, as necessary, in an appropriate manner. This is demonstrated by 1) the need for OMR to issue to the City a 15-Day Notice for failure to initiate enforcement actions for certain surface mining operations within the City's jurisdiction, and 2) the poor administration of sites that have become abandoned pursuant to PRC Section 2727.1(h)(6).

**Category [4] - Finding No. 6:** The City failed to adequately enforce SMARA and the SMGB's regulations via the issuance of properly implemented NOV, and OTC, and Administrative penalties, if appropriate. This is demonstrated by the issuance by OMR of a 15-Day Notice to the City for failure to initiate enforcement. Furthermore, OMR has issued NOV and OTC to several surface mining operations, and during such time, only one poorly executed NOV with no follow up evident, was issued by the City.

**Category [6] - Finding No. 7:** The City acknowledges its failure to effectively communicate with OMR in the past, and submit pertinent information as required under SMARA. The City has adequately addressed this deficiency.



**EXECUTIVE OFFICER'S RECOMMENDATION:** A SMARA lead agency need only fail in one of the six conditions set forth pursuant to PRC Section 2774.4(a) for the SMGB to consider commencement of the administrative process toward assumption of the lead agency's SMARA responsibilities and obligations, excluding permitting authority. The City has clearly met these criteria. However, the issuance of a 45-Day Notice to Correct Deficiencies by the SMGB allows for an opportunity for a lead agency to make its case that it is committed to maintaining an effective SMARA program, and fulfilling its obligations and responsibilities as a lead agency in accordance with SMARA and the SMGB's regulations.

Since receiving the public complaint in November 2009, the City has become better acquainted with SMARA, but the progress made to date is primarily a reflection of the efforts of OMR initiating enforcement actions, and directly interacting with certain operators. Prior to the SMGB and OMR involvement, seven surface mining operations were within the City's jurisdiction: four active sites, one idle site and 2 sites deemed abandoned. It is the Executive Officers understanding that OMR's stipulated Order to Comply will result in five surface mining operations within the City's jurisdiction: three active sites (Combination of CA Mine ID #91-33-006 and 0073 and 0020; 91-33-0015 and 91-33-0098), and two sites to be reclaimed promptly (CA Mine ID #91-33-0021 and 0022).

The consideration before the SMGB is whether the City has clearly demonstrated that it has the resources and commitment to adequately fulfill its SMARA responsibilities, and whether the SMGB should assume the City's lead agency responsibilities, in whole or in part, with the exception to permitting. The City has taken some steps, including participating in OMR's SMARA and inspection workshops, and has increased its working knowledge of SMARA. The City has also shown willingness to work with OMR and the operators toward a solution in achieving compliance with those surface mining operations within its jurisdiction.

Thus, the question is whether the City is prepared to fulfill its role as a SMARA lead agency based on 1) review of the City's response to the 45-Day Notice to Correct Deficiencies, 2) review of the City's response to OMR's 15-Day Notice, 3) the City's understanding of SMARA administrative and enforcement processes, and 4) willingness to dedicate the necessary resources required for an effective SMARA program. With OMR's assistance and initiation of enforcement actions, the path toward full compliance for all surface mining operations within the jurisdiction of the City has been mapped through a stipulated Order to Comply.

The Executive Officer, based on review of the administrative record contained herein, recommends that the SMGB continues to monitoring the City's progress, set certain performance standards to be achieved by the City within a specific time frame, and have the City report back to the SMGB in six months. The performance standards offered for the SMGB's consideration are:

- Conduct of adequate inspections for all seven surface mining operations within the City's jurisdiction, and provide copies of such reports within three months to the SMGB for review upon completion.
- Provide the SMGB with any new or amended reclamation plans submitted by any and all mines within 15 days of certification of adequacy under PRC Section





2774(c) at the time the City provides those new or amended reclamation plans under PRC Section 2774(c) to OMR.

- Provide the SMGB with all financial assurance cost estimates submitted by any and all mines within 15 days of certification of adequacy under CCR Section 3805 at the time the City provides those financial assurance cost estimates under PRC Section 2774(c) and the regulations at CCR Section 3805 to OMR.
- Provide the SMGB with all responses to OMR comments and notices under PRC Section 2774(d)(1) and (d)(2) at the same time such responses are sent to OMR.
- Provide the SMGB with copies of the inspection notice requirements under PRC Section 2774(b) within 15 days of forwarding same to OMR.

Provide the SMGB with copies of annual reports from all mining operations within 15 days of receipt of same.

The SMGB will request copies of all correspondence originated by OMR to the City of Lake Elsinore relating to the City's implementation of SMARA.

**SUGGESTED MOTION LANGUAGE:** The SMGB may consider the following motion language:

Motion No. 1: Accept findings set forth in the Executive Officer's report, in whole or in part.

*Mr. Chairman, I move that the SMGB, in light of the evidence presented before the Board today and contained in the Executive Officer's Report, accept the findings of the Executive Officer as set forth in the May 12, 2011, Executive Officer's Report.*

**[and]**

Motion No. 2a: Determination that the City has adequately and fully addressed the 45-Day Notice to Correct Deficiencies.

[Should the SMGB determine that to its satisfaction, the deficiencies have been adequately and fully corrected]

*Mr. Chairman, I move that the SMGB, in light of the evidence presented before the Board today and contained in the Executive Officer's Report, find that the City of Lake Elsinore has made a good faith effort in fulfilling its responsibilities and obligations as a Lead Agency under SMARA, and that the deficiencies previously noted have been adequately corrected to the satisfaction of the Board, and that no further action is required by the Board.*



*Executive Officer's Report*

[or]

Motion No. 2b: Determination that the City has made favorable progress to address the 45-Day Notice to Correct Deficiencies.

[Should the SMGB determine that the City is making significant progress, but certain deficiencies remain uncorrected, the following motion can be considered]

*Mr. Chairman, I move that the SMGB, in light of the evidence presented before the Board today and contained in the Executive Officer's Report, find that the City of Lake Elsinore has made a good faith effort in fulfilling its responsibilities and obligations as a Lead Agency under SMARA, and that the Board continue to monitor the City's progress, have the City comply with the performance standards set forth in the recommendations of the Executive Officer, and report back to the Board in six months.*

Motion No. 2c: Determination that the City has not adequately addressed the 45-Day Notice to Correct

[Should the SMGB determine that deficiencies and violations remain uncorrected and the City has failed to adequately address the 45-Day Notice to Correct Deficiencies, the following motion can be considered]

*Mr. Chairman, I move that the SMGB, in light of the evidence presented before the Board today and contained in the Executive Officer's Report, find that the City of Lake Elsinore has not made a good faith effort in fulfilling its responsibilities and obligations as a Lead Agency under SMARA, and that the deficiencies previously noted have not been corrected to the satisfaction of the Board, and that the Board shall assume, whole or in part, the City of Lake Elsinore's SMARA lead agency responsibilities and obligations.*

Respectfully submitted:

\_\_\_\_\_  
Stephen M. Testa  
Executive Officer

## **EXHIBITS**

**Exhibit A      SMGB 45-Day Notice to Correct Deficiencies**

**Exhibit B      OMR Correspondence**

**Exhibit C      City of Lake Elsinore Correspondence**

**Exhibit D      Public Comments**

**Exhibit E      Previous Inspection Reports**

